

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 664 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

BALUBHAI RASULBHAI VORA

Versus

NATHABHAI PANCHABHAI YADAV DELETED

Appearance:

MR PC KAVINA for Appellants

None present for Respondents No. 1, 2

MR SANDIP C SHAH for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/07/98

ORAL JUDGEMENT

1. This first appeal is directed by the original claimant-appellant who died during the pendency of this appeal now represented by his heirs against the judgment of the Motor Accident Claims Tribunal, Dist. Kheda at Nadiad in M.A.C.P. No.100/79 decided on 31-3-1981 and prayer has been made for enhancement of the amount of compensation awarded by the said Tribunal.

2. Under the impugned award, the said Tribunal awarded the original claimant-appellant Rs.8500/- as compensation for injuries sustained in a motor vehicular accident.

3. Learned counsel for the appellant contended that the Tribunal has committed serious illegality in not awarding any amount towards the head of future economic loss. This is the only contention made by the learned counsel for the appellants.

4. I have given my thoughtful consideration to the submission made by the learned counsel for the appellant.

5. The claimant-original appellant had not stepped into the witness box. The Tribunal after considering the evidence which has been produced on the record of this case found that the claimant has not suffered any permanent disability, which has resulted in future economic loss. The explanation which has been furnished for nonproduction of the claimant in the witness box is difficult to accept. The Tribunal has rightly observed in the judgment that normally a party to the suit is expected to step into witness box in support of his case and if the party does not appear in the witness box it would be open to the trial court to draw an adverse inference against him. For non-examination of the claimant as well as after considering the medical evidence produced on the record, the Tribunal has concluded that he is unable to establish that the injuries sustained by him had invited him any infirmity as contended in the claim application and even the complaint of post traumatic psychosis had any connection with the same. The evidence of doctors have been considered at length and after taking into consideration all the evidence, the Tribunal has not committed any error in case it is held that the claimant is not entitled for any compensation under the head of future economic loss.

6. One another important aspect has been noticed by the Tribunal that the services of the claimant were not terminated for any reason of his infirmity but his services were terminated on the ground of misconduct of absenteeism.

7. Taking into consideration the totality of the facts of this case, in this appeal no interference is called for in the award made by the Tribunal.

8. In the result, this appeal fails and the same is dismissed. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

zgs/-